

JOHN F. KEENAN

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: AREZIA AND ZOMETA PRODUCTS
LIABILITY LITIGATION

MDL No. 1760

IN RE: FOSAMAX PRODUCTS LIABILITY LITIGATION

Thomas M. Poaps v. Merck & Co., Inc. et al.,)
N.D. Florida, C.A. No. 1:11-00017)

MDL No. 1789

MDL No. 1760 CONDITIONAL TRANSFER ORDER (CTO-140)
WITH SEPARATION, REMAND AND
MDL No. 1789 CONDITIONAL TRANSFER ORDER (CTO-89)

FILED
DISTRICT COURT
2011 FEB 16 PM 2:37
S.D. OF N.Y.

On April 18, 2006, the Panel transferred 27 civil actions to the United States District Court for the Middle District of Tennessee for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 429 F.Supp.2d 1371 (J.P.M.L. 2006). Since that time, 569 additional actions have been transferred to the Middle District of Tennessee. With the consent of that court, all such actions have been assigned to the Honorable Todd J. Campbell.

On August 16, 2006, the Panel transferred four civil actions to the United States District Court for the Southern District of New York for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 444 F.Supp.2d 1347 (J.P.M.L. 2006). Since that time, 222 additional actions have been transferred to the Southern District of New York. With the consent of that court, all such actions have been assigned to the Honorable John F. Keenan.

It appears that the action on this conditional transfer order comprises claims relating to: (1) the prescription drug Zometa, which involve common questions of fact with the previously transferred MDL No. 1760 actions; and (2) the prescription drug Fosamax, which involve common questions of fact with the previously transferred MDL No. 1789 actions.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), this action is transferred under 28 U.S.C. § 1407 to the Middle District of Tennessee for the reasons stated in the order of April 18, 2006, in MDL 1760 and, with the consent of that court, assigned to the Honorable Todd J. Campbell.

The claims in this action relating to Fosamax are hereby separated and simultaneously remanded, under 28 U.S.C. 1407(a), to the Northern District of Florida.

Inasmuch as no objection is
pending at this time, the
stay is lifted.

Feb 16, 2011

CLERK'S OFFICE
UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

A CERTIFIED COPY
RUBY J. KRAJICK, CLERK

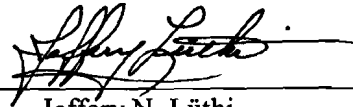
BY

Deputy Clerk

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), the resulting Fosamax action is transferred under 28 U.S.C. § 1407 to the Southern District of New York for the reasons stated in the order of August 16, 2006, in MDL No. 1789 and, with the consent of that court, assigned to the Honorable John F. Keenan.

This order does not become effective until it is filed in the offices of: (1) the Clerk of the United States District Court for the Middle District of Tennessee, and (2) the Clerk of the United States District Court for the Southern District of New York. The transmittal of this order to said Clerks shall be stayed 7 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 7-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

A handwritten signature in black ink, appearing to read "Jeffery N. Lüthi", is written over a horizontal line.

Jeffery N. Lüthi
Clerk of the Panel